IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Bail Appl..No. 6930 of 2007()

(CRIME NO.265/2007 OF THE KARUKACHAL POLICE STATION)

PETITIONERS:ACCUSED:

1. **NOUSHAD ALSO KNOWN AS RIYAS,**
   S/O. ALIYAR RAWTHER, KARIMALA PUTHEN VEEDU,
   PARUTHIMOODU, KANGAZHA, CHANGANASSERY.

2. **ALIYAR RAWTHER,**
   KARIMALA PUTHENVEEDU, PARUTHIMOODU,
   KANGAZHA, CHANGANASSERY.

3. **M.A. NAZAR,**
   KARIMALA PUTHENVEEDU, PARUTHIMOODU,
   KANGAZHA, CHANGANASSERY.

4. **HAJIRA BEEVI,**
   KARIMALA PUTHENVEEDU, PARUTHIMOODU,
   KANGAZHA, CHANGANASSERY.

BY ADV. SRI.K.A.HASSAN

RESPONDENTS: COMPLAINANT:

1. **S.I. OF POLICE, KARUKACHAL.**

2. **STATE OF KERALA,**
   BOTH ARE REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

B.A.No.6930 of 2007

Dated this the 15th day of November, 2007

ORDER

Application for anticipatory bail. Petitioners are the husband of the defacto complainant and his relatives. They face allegations for offences punishable, inter alia, under Section 498 A I.P.C.

2. The crux of the allegations is that the petitioners have been guilty of matrimonial cruelty of the culpable variety punishable under Section 498 A I.P.C against the defacto complainant. The crime has been registered on the basis of a private complaint filed by the defacto complainant before the Magistrate and referred to the police by the Magistrate under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

3. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. There was strain in the matrimonial relationship. The marriage had taken place in April, 2003. There is one child born in the wedlock also. There was strain in the marital tie right though. The husband had a grievance that the wife was suffering from mental ailment and that fact was suppressed from him. Mediators had intervened on a number of occasions. But peace and harmony did not return to the marital tie. According to the

petitioners, the marital tie has been dissolved by pronouncement of talaq and it is long later that the defacto complainant, suppressing such divorce, has chosen to file the private complaint alleging matrimonial cruelty.

4. The learned Public Prosecutor does not oppose the application. I have considered all the averments in the bail application as also the documents produced along with the bail application. Case diary was also placed before me. I have perused the same. Considering all the relevant circumstances, I am satisfied that this is a fit case where the petitioners can be granted anticipatory bail.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 22.11.2007. They shall be enlarged on regular bail on their executing bonds for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 4 p.m on 23.11.07 and 24.11.07 and thereafter between 10 a.m and 12 noon on all Sundays for a period of one month. Subsequently the

petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 22.11.2007 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 22.11.07.

(R.BASANT, JUDGE)

rtr/-